**§ 701 Educ. Power to designate text-books; purchase and loan of text-books;**

**purchase of supplies.**

1. In the several cities and school districts of the state, boards of

education, trustees or such body or officer as perform the functions of

such boards, shall designate text-books to be used in the schools under

their charge.

2. A text-book, for the purposes of this section shall mean:

(i) any book, or a book substitute, which shall include hard covered or

paperback books, work books, or manuals and

(ii) for expenses incurred after July first, nineteen hundred

ninety-nine, any courseware or other content-based instructional

materials in an electronic format, as such terms are defined in the

regulations of the commissioner, which a pupil is required to use as a

text, or a text-substitute, in a particular class or program in the

school he or she legally attends. For expenses incurred on or after July

first, two thousand eleven, a text-book shall also mean items of

expenditure that are eligible for an apportionment pursuant to sections

seven hundred eleven, seven hundred fifty-one and/or seven hundred

fifty-three of this title, where such items are designated by the school

district as eligible for aid pursuant to this section, provided,

however, that if aided pursuant to this section, such expenses shall not

be aidable pursuant to any other section of law. Expenditures aided

pursuant to this section shall not be eligible for aid pursuant to any

other section of law. Courseware or other content-based instructional

materials in an electronic format included in the definition of textbook

pursuant to this subdivision shall be subject to the same limitations on

content as apply to books or book substitutes aided pursuant to this

section.

3. In the several cities and school districts of the state, boards of

education, trustees or such body or officers as perform the function of

such boards shall have the power and duty to purchase and to loan upon

individual request, textbooks, to all children residing in such district

who are enrolled in a public school including children attending the

public schools of the district for whom the district is eligible to

receive reimbursement pursuant to paragraph a of subdivision eight of

section thirty-two hundred two of this chapter, provided, however, that

such children shall not be counted by any other school district, and to

all children residing in such district who are enrolled in a nonpublic

school. Textbooks loaned to children enrolled in said nonpublic schools

shall be textbooks which are designated for use in any public schools of

the state or are approved by any boards of education, trustees or other

school authorities. Such textbooks are to be loaned free to such children

subject to such rules and regulations as are or may be prescribed by the

board of regents and such boards of education, trustees or other school

authorities. Enrollment shall be as defined in subdivision one of

section thirty-six hundred two of this chapter.

4. No school district shall be required to purchase or otherwise

acquire textbooks, the cost of which shall exceed an amount equal to the

apportionment pursuant to subdivision six of this section plus a minimum

lottery grant determined pursuant to subdivision four of

section ninety-two-c of the state finance law multiplied by the number of

children residing in such district and so enrolled in the base year; and

no school district shall be required to loan textbooks in excess of the

textbooks owned or acquired by such district; provided, however that all

textbooks owned or acquired by such district shall be loaned to children

residing in the district and so enrolled in public and nonpublic schools

on an equitable basis.

5. In the several cities and school districts of the state, boards of

education, trustees or other school authorities may purchase supplies and

either rent, sell or loan the same to the pupils attending the public

schools in such cities and school districts upon such terms and under such

rules and regulations as may be prescribed by such boards of education,

trustees or other school authorities.

6. The commissioner, in addition to the annual apportionment of public

monies pursuant to other articles of this chapter, shall apportion to

each school district an amount equal to the cost of the textbooks

purchased and loaned by the district pursuant to this section in the base

year, but in no case shall the aid apportioned to the district exceed the

product of the textbook factor plus a minimum lottery grant, determined

pursuant to subdivision four of section ninety-two-c of the state finance

law, and the sum of the enrollments in grades kindergarten through twelve

in the base year calculated pursuant to subparagraphs four, five, and six

of paragraph n of subdivision one of section thirty-six hundred two of

this chapter. Aid payable pursuant to this section shall be deemed final

and not subject to change after April thirtieth of the school year for

which payment was due.

For aid payable in the two thousand seven — two thousand eight school

year and thereafter, the textbook factor shall equal forty-three dollars

and twenty-five cents.

7. The apportionment provided for in this section shall be paid, at

such times as may be determined by the commissioner and approved by the

director of the budget, during the school year in which the expenditures

are reported to the department prior to such apportionment. Expenditures

by a school district in excess of the product of the textbook factor plus

a minimum lottery grant determined pursuant to subdivision four of

section ninety-two-c of the state finance law and the sum of the

enrollments in grades kindergarten through twelve in the base year

calculated pursuant to subparagraphs four, five, and six of paragraph n

of subdivision one of section thirty-six hundred two of this chapter in

any school year shall be deemed approved operating expense of the

district for the purpose of computation of state aid pursuant to

section thirty-six hundred two of this chapter, but expenditures up to such

product shall not be deemed approved operating expenses for such purpose.

8. In its discretion, a board of education may adopt regulations

specifying the date by which requests for the purchase and loan of

textbooks must be received by the district. Notice of such date shall be

given to all non-public schools. Such date shall not be earlier than the

first day of June of the school year prior to that for which such textbooks

are being requested, provided, however, that a parent or guardian of a

child not attending a particular non-public school prior to June first of

the school year may submit a written request for textbooks within thirty

days after such child is enrolled in such non-public school. In no event

however shall a request made later than the times otherwise provided

pursuant to this subdivision be denied where a reasonable explanation is

given for the delay in making the request.

(As amended by Laws 1999, ch. 405, Pt. L, Sec. 8, eff. Aug. 6, 1999,

retroactive to July 1, 1999; Laws 2002, ch. [83](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=14600543@NYACTS&alias=NYACTS&cite=CHAPTER+83%2C+LAWS+OF+NEW+YORK+2002#PR0), PT. H, Sec. 2, eff. May 29,

2002; Laws 2007, ch. [57](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20265496@NYACTS&alias=NYACTS&cite=CHAPTER+57%2C+LAWS+OF+NEW+YORK+2007#PR0), Pt. B, Sec. 6, eff. Jul. 1, 2007; Laws 2011,

ch. [58](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=24827259@NYACTS&alias=NYACTS&cite=CHAPTER+58%2C+LAWS+OF+NEW+YORK+2011#PR0), Pt. A-1, Sec. 1, eff. Apr. 1, 2011.)

Amendment Notes:

Laws 2011, ch. [58](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=24827259@NYACTS&alias=NYACTS&cite=CHAPTER+58%2C+LAWS+OF+NEW+YORK+2011#PR0), Pt. A-1, Sec. 1, eff. Apr. 1, 2011, amended

subdivision 2.

Laws 2007, ch. [57](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20265496@NYACTS&alias=NYACTS&cite=CHAPTER+57%2C+LAWS+OF+NEW+YORK+2007#PR0), Pt. B, Sec. 6, eff. Jul. 1, 2007, amended

subdivision 6.

Severability: Laws 1999, ch. 405, Pt. L, Sec. 103, provided that:

"The provisions of this act shall be severable, and if the application

of any clause, sentence, paragraph, subdivision, section or part of this

act to any person or circumstance shall be adjudged by any court of

competent jurisdiction to be invalid, such judgment shall not necessarily

affect, impair or invalidate the application of any such clause,

sentence, paragraph, subdivision, section, part of this act or remainder

thereof, as the case may be, to any other person or circumstance, but

shall be confined in its operation to the clause, sentence, paragraph,

subdivision, section or part thereof directly involved in the controversy

in which such judgment shall have been rendered."

Laws 1999, ch. 405, Sec. 2, provided that:

"If any clause, sentence, paragraph, subdivision, section or

part contained in any part of this act shall be adjudged by any court of

competent jurisdiction to be invalid, such judgment shall not affect,

impair, or invalidate the remainder thereof, but shall be confined in its

operation to the clause, sentence, paragraph, subdivision, section or

part contained in any part thereof directly involved in the controversy in

which such judgment shall have been rendered. It is hereby declared to be

the intent of the legislature that this act would have been enacted even

if such invalid provisions had not been included herein."

8 NYCRR 21.2. Lending procedures.

(a) Resident pupils, except those enrolled in residential schools

located outside the State of New York, in grades kindergarten through

12, may borrow textbooks, including courseware or other content-based

instructional materials in electronic format, that are designated for use

in any public elementary or secondary school in the State or approved by

any school board, provided that for the purposes of this section and

section [701](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=18709724@NYCODE&alias=NYCODE&cite=701+Educ.) of the Education Law, courseware or other content-based

instructional materials in electronic format shall mean any instructional

medium that provides specific nonsectarian educational content to

students via a computer or other electronic system, and provided further

that such textbooks, courseware, or other content-based instructional

materials in electronic format must be required in a particular class or

program as a primary source of study material intended to implement a

major part of a State curriculum or State-approved local curriculum. The

following materials shall not be considered to constitute textbooks for

the purposes of this section:

(1) encyclopedias, almanacs, atlases, and general and special purpose

dictionaries, except that dictionaries individually assigned to all

students in a particular class or program as a textbook substitute shall

be considered to constitute textbooks;

(2) supplementary textbooks, novels and other fiction, magazines,

newspapers and audio-visual materials normally housed in the school

library or instructional materials center for short-term use by

students, except that a newspaper or news magazine shall be considered to

constitute a textbook for the purposes of this section where the

newspaper or news magazine is a paper or magazine of general circulation

which is printed and distributed ordinarily not less frequently than

biweekly, and has been so for at least one year, and which contains

news, articles of opinion, features and other matter regarded as of

current interest, has a paid circulation within the school district which

proposes to purchase copies pursuant to this section, has been entered

with the United States Postal Service as second-class matter, is made

available to schools on the date of publication of each edition at a

discount of not less than 331/3 percent from the regular price, and whose

publisher regularly supplies study guides without charge to assist

teachers in developing lessons based upon the newspaper;

(3) tests and testing materials, teacher's editions of textbooks,

review books, and materials in kit form;

(4) sectarian publications and denominational editions which contain

the approval of a religious authority;

(5) computer software that is generic in function, including, but not

limited to, word-processing software, database software, and internet and

network access software; and

(6) computer hardware including, but not limited to, mini-computers;

microcomputers; peripheral devices, such as printers, video display

plotters and desk storage units; telecommunications hardware; modems;

special hardware boards; cables; and audio, video, touch-sensitive and

other electronic to human machine interface hardware.

(b) Textbooks shall be loaned upon the individual written request of

nonpublic school students, but such requests shall not be required of

public school students. Such requests may be presented directly to the

lending district or, with the consent of the lending district, to an

appropriate official of the nonpublic school which the student attends.

The form of request utilized by a lending district may provide for a

guarantee by a parent or guardian for the return of such books or, in the

case of loss or damage, for payment of the value thereof.

(c) Textbooks acquired by a school district for lending purposes shall

be distributed on an equitable basis to all eligible school children in

grades kindergarten through 12.

(d) All textbooks shall remain the property of the lending district and

shall bear an identifying mark, number or stamp on the inside front cover

or on the spine.

(e) All textbooks shall be returned to the official designated by the

lending district as the custodian thereof upon the request of such

official. A lending district may agree that such books may be stored upon

the property of a nonpublic school, in which event the lending district

shall furnish the nonpublic school with an inventory of the books loaned

to the individual students attending such school and the nonpublic school

authorities shall advise the lending district of any books which have not

been returned, with the name and last known address of the borrower.

(f) Each district may include in its report of expenditures the

purchase price of the textbooks purchased, including the cost of freight

or postage for transporting such books from the vendor to the district.

Expenditures relating to distribution, storage, recordkeeping and

administration may not be included for textbook aid purposes, but may be

included for regular operating aid purposes.

Historical Note: Sec. filed Oct. 10, 1969; amds. filed: July 2, 1973;

July 1, 1974; Jan. 22, 1987; Sept. 19, 1988; March 31, 1992; June 15,

2000 as emergency measure; July 18, 2000 eff. Aug. 3, 2000. Amended (a).

**§ 711 Educ. Aid for the purchase of school library materials.**

1. In the several cities and school districts of the state, boards of

education, trustees or such body or officers as perform the functions of

such boards, shall designate school library materials to be used in the

schools in the district.

2. School library materials, for the purposes of this article shall mean

both audio/visual materials and printed materials that may or may not

require magnification which meet all of the following criteria:

(1) materials which are catalogued and processed as part of the school

library or media center for use by elementary and/or secondary school

children and teachers;

(2) materials which with reasonable care and use may be expected

to last more than one year; and

(3) materials which would not be eligible for aid pursuant to sections

seven hundred one and seven hundred fifty-one of this title. School

library materials meeting these criteria may include

(i) hard cover and paperback books, periodicals, that is, publications

which appear at regular intervals of less than one year on a continuing

basis for an indefinite period, documents other than books, pamphlets,

musical scores, other printed and published materials, and

(ii) for school year nineteen hundred eighty-six — eighty-seven and

thereafter, audio/visual materials including films, film strips,

micro-film, sound recordings, processed slides, transparencies,

kinescopes, video tapes, maps, charts, globes, pictorial works, including

pictures and picture sets, reproductions, photographs, graphic works, and

any other audio/visual materials of a similar nature made.

3. No school district shall be required to purchase or otherwise acquire

school library materials, the cost of which shall exceed an amount equal to

the library materials factor multiplied by the sum of the public school

district enrollment and the nonpublic school enrollment in the base year as

defined in subparagraphs two and three of paragraph n of subdivision one of

section thirty-six hundred two of this chapter. For aid payable in the

nineteen hundred ninety-eight — nineteen hundred ninety-nine school year,

the library materials factor shall be four dollars. For aid payable in the

two thousand seven — two thousand eight school year and thereafter, the

library materials factor shall be six dollars and twenty-five cents.

4. Commencing July first, nineteen hundred ninety eight, the

commissioner, in addition to the annual apportionment of public monies

pursuant to other articles of this chapter, shall apportion to each school

district an amount equal to the cost of the school library materials

purchased by the district pursuant to this section in the base year, but

in no case shall the aid apportioned to the district exceed the product

of the library materials factor and the sum of public school district

enrollment, nonpublic school enrollment, and additional public enrollment

as defined in subparagraphs two, three, and six of paragraph n of

subdivision one of section thirty-six hundred two of this chapter. Aid

payable pursuant to this section shall be deemed final and not subject to

change after April thirtieth of the school year for which payment was

due.

(As amended by Laws 2007, ch. [57](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20265496@NYACTS&alias=NYACTS&cite=CHAPTER+57%2C+LAWS+OF+NEW+YORK+2007#PR0), Pt. B, Sec. 7, eff. Jul. 1, 2007; Laws

2011, ch. [58](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=24827259@NYACTS&alias=NYACTS&cite=CHAPTER+58%2C+LAWS+OF+NEW+YORK+2011#PR0), Pt. A-1, Sec. 2, eff. Apr. 1, 2011.)

Amendment Notes:

Laws 2011, ch. [58](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=24827259@NYACTS&alias=NYACTS&cite=CHAPTER+58%2C+LAWS+OF+NEW+YORK+2011#PR0), Pt. A-1, Sec. 2, eff. Apr. 1, 2011, amended

subdivision 2.

Laws 2007, ch. [57](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20265496@NYACTS&alias=NYACTS&cite=CHAPTER+57%2C+LAWS+OF+NEW+YORK+2007#PR0), Pt. B, Sec. 7, eff. Jul. 1, 2007, amended

subdivision 3.

**§ 712 Educ. Loan of school library materials.**

1. In the several cities and school districts of the state, boards of

education, trustees or such body or officers as perform the function of

such boards shall have the power and duty to loan upon request of an

individual or a group of individual pupils, to all pupils defined in

subdivision three of section seven hundred eleven of this article, school

library materials. School library materials loaned to such pupils attending

private schools shall be school library materials which are designated for

use in any public elementary or secondary schools of the state or are

approved by any board of education, trustees or other school authorities.

Such school library materials are to be loaned free to such children

subject to such rules and regulations as are or may be prescribed by the

board of regents and such boards of education, trustees or other school

authorities.

2. No school district shall be required to loan school library

materials in excess of the school library materials owned or acquired by

such district pursuant to section seven hundred eleven of this article.

Such school library materials shall be loaned on an equitable basis to

children defined in subdivision three of section seven hundred eleven of

this article attending in the current year. The payment of tuition under

article eighty-nine of this chapter is deemed to be an equitable loan to

children for whom such tuition is paid.

**8 NYCRR 21.4. Lending procedures for school library materials.**

(a) As used in this section, school library materials shall mean:

(1) for the 1985-86 school year only, printed materials that may or may

not require magnification and which meet all of the criteria specified in

subdivision (2) of section [711](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=18709729@NYCODE&alias=NYCODE&cite=711+Educ.) of the Education Law; or

(2) for the 1986-87 school year and thereafter, both printed materials

and audio-visual materials that may or may not require magnification and

which meet all of the criteria specified in subdivision (2) of section [711](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=18709729@NYCODE&alias=NYCODE&cite=711+Educ.)

of the Education Law.

(b) Pupils enrolled in grades kindergarten through 12 in schools in New

York State may borrow school library materials designated for use in any

public elementary or secondary school in the State of New York or approved

by any school board. Such school library materials shall be required for

use as a learning aid in a particular class or program, and shall be

loaned for individual student use only. School library materials which

are religious in nature or content shall not be purchased or loaned by a

school district.

(c) School library materials shall be loaned upon the individual

written request of nonpublic school students, but such requests shall not

be required of public school students. Such requests may be presented

directly to the lending district or, with the consent of such district,

to an appropriate official of the nonpublic school which the student

attends. The form of request used by a lending district may provide for a

guarantee by a parent or guardian for the return of such library

materials or, in the case of loss or damage, for payment of the value

thereof.

(d) School library materials owned or acquired by a school district

pursuant to section [711](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=18709729@NYCODE&alias=NYCODE&cite=711+Educ.) of the Education Law shall be available on an

equitable basis to all eligible pupils enrolled in grades kindergarten

through 12 in public and nonpublic schools within the district, and to

pupils with handicapping conditions residing in such district who attend

programs under the provisions of paragraphs c, e, g, i and l of

subdivision 2 of section [4401](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=2673559@NYCODE&alias=NYCODE&cite=4401+Educ.) of the Education Law. Such school library

materials shall remain the property of the lending district and shall

bear an identifying label. The school authorities of each district shall

establish lending procedures which apply to pupils in public and

nonpublic schools, and shall inform the authorities of such schools

within the boundaries of the public school district of these procedures.

(e) All school library materials shall be returned to the official

designated by the lending district as the custodian thereof upon the

request of such official. A lending district may agree that such library

materials may be stored upon the property of a nonpublic school, in which

event the lending district shall furnish the nonpublic school with an

inventory of the library materials loaned to the individual students

attending such school, and the nonpublic school authorities shall advise

the lending district of any library materials which have not been

returned, with the name and last known address of the borrower.

(f) School library materials shall be loaned free to all eligible

pupils. No charges, except as provided for in subdivision (c) of this

section, may be levied against individual pupils, parents or schools for

the cost of school library materials or for expenditures related to

freight, postage, distribution, storage, recordkeeping or

administration.

(g) Each district may include in its report of expenditures the

purchase price of the school library materials purchased, including the

cost of freight or postage for transporting such library materials from

the vendor to the district. Expenditures relating to distribution,

storage, recordkeeping or administration may not be included for library

materials aid purposes, but they may be included for regular operating

aid purposes.

(h) Public school districts shall maintain a separate record of

expenditures incurred from State aid received pursuant to Education Law,

section [711](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=18709729@NYCODE&alias=NYCODE&cite=711+Educ.), and this section.

Historical Note: Sec. filed June 25, 1985 eff. July 16, 1985.

**§ 751 Educ. Aid for computer software purchases.**

1. In the several cities and school districts of the state, boards of

education, trustees or such body or officers as perform the functions of

such boards, shall designate software programs to be used in conjunction

with computers of the school district.

2. A software program, for the purposes of this article shall mean

(a) a computer program which a pupil is required to use as a learning

aid in a particular class in the school the pupil legally attends, or

(b) for expenses incurred after July first, two thousand nine, any

content-based instructional materials in an electronic format that are

aligned with state standards which are accessed or delivered through the

internet based on a subscription model. Such electronic format materials

may include a variety of media assets and learning tools, including

video, audio, images, teacher guides, and student access capabilities as

such terms are defined in the regulations of the commissioner. For

expenses incurred on or after July first, two thousand eleven, a software

program shall also mean items of expenditure that are eligible for an

apportionment pursuant to sections seven hundred one, seven hundred eleven

and/or seven hundred fifty-three of this title, where such items are

designated by the school district as eligible for aid pursuant to this

section, provided, however, that if aided pursuant to this section, such

expenses shall not be aidable pursuant to any other section of law.

3. No school district shall be required to purchase or otherwise acquire

software programs, the cost of which shall exceed an amount equal to the

software factor multiplied by the sum of the public school district

enrollment and the nonpublic school enrollment in the base year as defined

in subparagraphs two and three of paragraph n of subdivision one of

section thirty-six hundred two of this chapter.

4. The commissioner, in addition to the annual apportionment of public

monies pursuant to other articles of this chapter, shall apportion to each

school district an amount equal to the cost of the software programs

purchased by the district pursuant to this section in the base year, but in

no case shall the aid apportioned to the district exceed the product of the

software factor and the sum of public school district enrollment, nonpublic

school enrollment, and additional public enrollment as defined in

subparagraphs two, three, and six of paragraph n of subdivision one of

section thirty-six hundred two of this chapter.

For aid payable in the nineteen hundred ninety-seven — ninety-eight and

nineteen hundred ninety-eight — ninety-nine school years, the software

factor shall equal four dollars and fifty-eight cents. For aid payable in

the nineteen hundred ninety-nine — two thousand school year, the software

factor shall equal seven dollars and fifty-five cents. For aid payable in

the two thousand — two thousand one school year, the software factor

shall equal fourteen dollars and ninety-eight cents. For aid payable in

the two thousand one — two thousand two school year, the software factor

shall equal twenty-three dollars and ninety cents. For aid payable in the

two thousand two — two thousand three school year and thereafter, the

software factor shall equal fourteen dollars and ninety-eight cents. The

apportionment provided for in this section shall be paid at such times as

may be determined by the commissioner and approved by the director of the

budget. Aid payable pursuant to this section shall be deemed final and

not subject to change after April thirtieth of the school year for which

payment was due.

(As amended by Laws 2002, ch. [83](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=14600543@NYACTS&alias=NYACTS&cite=CHAPTER+83%2C+LAWS+OF+NEW+YORK+2002#PR0), Pt. H, Sec. 3, eff. May 29, 2002; Laws

2009, ch. [57](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=22516350@NYACTS&alias=NYACTS&cite=CHAPTER+57%2C+LAWS+OF+NEW+YORK+2009#PR0), Pt. A, Sec. 6, eff. July 1, 2009; Laws 2011, ch. [58](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=24827259@NYACTS&alias=NYACTS&cite=CHAPTER+58%2C+LAWS+OF+NEW+YORK+2011#PR0),

Pt. A-1, Sec. 3, eff. Apr. 1, 2011.)

Amendment Notes:

Laws 2011, ch. [58](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=24827259@NYACTS&alias=NYACTS&cite=CHAPTER+58%2C+LAWS+OF+NEW+YORK+2011#PR0), Pt. A-1, Sec. 3, eff. Apr. 1, 2011, amended

subdivision 2.

Laws 2009, ch. [57](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=22516350@NYACTS&alias=NYACTS&cite=CHAPTER+57%2C+LAWS+OF+NEW+YORK+2009#PR0), Pt. A, Sec. 6, eff. July 1, 2009, amended

subdivision 2.

**§ 752 Educ. Loan of computer software.**

1. In the several cities and school districts of the state, boards of

education, trustees or such body or officers as perform the function of

such boards shall have the power and duty to loan upon request of an

individual or a group of individual pupils, to all pupils defined in

subdivision three of section seven hundred fifty-one of this article,

software programs. Software programs loaned to such pupils attending

private schools shall be software programs which are designated for use in

any public elementary or secondary schools of the state or are approved by

any board of education, trustees or other school authorities. Such software

programs are to be loaned free to such children subject to such rules and

regulations as are or may be prescribed by the board of regents and such

boards of education, trustees or other school authorities.

2. No school district shall be required to loan software programs in

excess of the software programs owned or acquired by such district

pursuant to section seven hundred fifty-one of this article. Such software

programs shall be loaned on an equitable basis to children defined in

subdivision three of section seven hundred fifty-one of this

article attending in the current year. The payment of tuition under

article eighty-nine of this chapter is deemed to be an equitable loan to children

for whom such tuition is paid.

8 NYCRR 21.3. Lending procedures for computer software and instructional

computer hardware.

(a) Lending procedures for computer software.

(1) Computer software programs means prepared educational programs

which are subject-oriented for use by students in conjunction with

computers. The following items shall not be considered to constitute

computer software programs for the purpose of this section:

microcomputers, blank diskettes, cassettes or tapes, chips, computer

correction devices, consoles, cords, disk drives and other similar items

of hardware.

(2) Pupils enrolled in grades kindergarten through 12 in schools in New

York State may borrow computer software programs designated for use in

any public elementary or secondary school in the State of New York or

approved by any school board. Such computer software programs shall be

required for use as a learning aid in a particular class or program.

Computer software programs which are religious in nature or content shall

not be purchased or loaned by a school district.

(3) Computer software programs shall be loaned upon the individual

written request of nonpublic school students, but such requests shall not

be required of public school students. Such requests may be presented

directly to the lending district or, with the consent of such district,

to an appropriate official of the nonpublic school which the student

attends. The form of request used by a lending district may provide for a

guarantee by a parent or guardian for the return of such software or, in

the case of loss or damage, for payment of the value thereof.

(4) Computer software programs owned or acquired by a school district

pursuant to section [752](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=18709735@NYCODE&alias=NYCODE&cite=752+Educ.) of the Education Law shall be available on an

equitable basis to all eligible pupils enrolled in grades kindergarten

through 12 in public and nonpublic schools within the district, and to

pupils with handicapping conditions residing in such district who attend

programs under the provisions of paragraphs c, e, g, i and l of

subdivision 2 of section [4401](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=2673559@NYCODE&alias=NYCODE&cite=4401+Educ.) of the Education Law, shall remain the

property of the lending district and shall bear an identifying label. The

school authorities of each district shall establish lending procedures

which apply to pupils in public and nonpublic schools, and shall inform

the authorities of such schools of these procedures.

(5) All computer software programs shall be returned to the official

designated by the lending district as the custodian thereof upon the

request of such official. A lending district may agree that such software

may be stored upon the property of a nonpublic school, in which event the

lending district shall furnish the nonpublic school with an inventory of

the software loaned to the individual students attending such school and

the nonpublic school authorities shall advise the lending district of any

software which has not been returned, with the name and last known

address of the borrower.

(6) Computer software programs shall be loaned free to all eligible

pupils. No charges, except as provided for in paragraph (3) of this

subdivision, may be levied against individual pupils, parents or schools

for the cost of computer software programs or for expenditures related to

freight, postage, distribution, storage, recordkeeping or

administration.

(7) Each district may include in its report of expenditures the

purchase price of the computer software programs purchased, including the

cost of freight or postage for transporting such software from the vendor

to the district. Expenditures relating to distribution, storage,

recordkeeping or administration may not be included for computer software

aid purposes.

(8) Public school districts shall maintain a separate record of

expenditures incurred from State aid received pursuant to Education Law,

section [751](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=18709734@NYCODE&alias=NYCODE&cite=751+Educ.), and this section.

(b) Lending procedures for instructional computer hardware.

(1) Definitions.

(i) Instructional computer hardware shall mean those items of equipment

eligible for State aid pursuant to section [175.25](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=5543841@NYREGS&alias=NYREGS&cite=8+NYCRR+175.25)(b) of this Title,

including:

(a) mini-computers;

(b) microcomputers;

(c) peripheral devices, including printers, video display plotters, and

desk storage units;

(d) telecommunications hardware, including modems;

(e) special hardware boards;

(f) cables;

(g) audio, video, touch-sensitive and other electronic to human machine

interface hardware; and

(h) other such computer hardware that may be required for the operation

of a computer-based instructional program.

(ii) School authorities shall mean those persons as defined under

section [1.1](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=9020489@NYREGS&alias=NYREGS&cite=8+NYCRR+1.1)(p) of this Title.

(2) Pupils enrolled in grades kindergarten through 12 in nonpublic

schools in New York State may borrow instructional computer hardware

designated for use in any public elementary or secondary school in the

State of New York or approved by any school board. Such instructional

computer hardware shall be required for use as a learning aid in a

particular class or program. Instructional computer hardware containing

computer software programs which are religious in nature or content shall

not be purchased or loaned by a school district.

(3) Instructional computer hardware shall be loaned upon the individual

written request of nonpublic school students, but such requests shall not

be required of students attending public school districts. Such requests

may be presented directly to the lending district or, with the consent of

such district, to an appropriate official of the nonpublic school which

the student attends. The form of request used by a lending district may

provide for a guarantee by a parent or guardian for the return of such

hardware or, in the case of loss or damage, for payment of the value

thereof. School authorities shall adopt regulations specifying the date

by which such requests must be received, but no earlier than June 1st of

each year prior to the year for which such hardware is being requested. A

parent or guardian of a child not attending a particular nonpublic school

prior to June 1st of the school year may request a loan of instructional

computer hardware within 30 days after enrollment.

(4) No school district shall be required to loan instructional computer

hardware in excess of the instructional computer hardware acquired by

such district pursuant to Education Law, section [753](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20324706@NYCODE&alias=NYCODE&cite=753+Educ.). Within the limits

apportioned to such district pursuant to Education Law, section [753](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20324706@NYCODE&alias=NYCODE&cite=753+Educ.),

instructional computer hardware acquired pursuant to such section shall

be loaned on an equitable basis to children attending nonpublic schools

in the district in the current year, and to pupils with handicapping

conditions residing in such district who attend programs under the

provisions of paragraphs c, e, g, i and l of subdivision 2 of section [4401](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=2673559@NYCODE&alias=NYCODE&cite=4401+Educ.)

of the Education Law, provided that nothing in this section shall be

construed to require a school district to loan to children attending

nonpublic schools in the district or to such pupils with handicapping

conditions, instructional computer hardware purchased with local or

Federal funds or with State funds other than funds apportioned pursuant

to Education Law, section [753](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20324706@NYCODE&alias=NYCODE&cite=753+Educ.). Such instructional computer hardware shall

remain the property of the lending district and shall bear an identifying

label. The school authorities of each district shall establish lending

procedures which apply to pupils in public and nonpublic schools, and

shall inform the authorities of such schools of these procedures. The

payment of tuition under article 89 of the Education Law is deemed to be

an equitable loan to children for whom such tuition is paid, and the

provisions of this section shall not apply.

(5) All instructional computer hardware shall be returned to the

official designated by the lending district as the custodian thereof upon

the request of such official. A lending district may agree that such

hardware may be stored upon the property of a nonpublic school, in which

event the lending district shall furnish the nonpublic school with an

inventory of the hardware loaned to the individual students attending

such school and the nonpublic school authorities shall advise the lending

district of any hardware which has not been returned, with the name and

last known address of the borrower.

(6) Instructional computer hardware shall be loaned free to all

eligible pupils. No charges, except as provided for in paragraph (3) of

this subdivision, may be levied against individual pupils, parents or

schools for the cost of instructional computer hardware or for

expenditures related to freight, postage, distribution, storage,

recordkeeping or administration.

(7) Each district may include in its report of expenditures the

purchase price of the instructional computer hardware purchased, including

the cost of freight or postage for transporting such hardware from the

vendor to the district. Expenditures relating to distribution, storage,

recordkeeping or administration may not be included for instructional

computer hardware aid purposes.

(8) Public school districts shall maintain a separate record of

expenditures incurred from State aid received pursuant to Education Law,

section [753](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20324706@NYCODE&alias=NYCODE&cite=753+Educ.) of the Education Law, and this section.

Historical Note: Sec. filed: May 1, 1984 as emergency measure; June 26,

1984; amds. filed: May 29, 2007 as emergency measure; Aug. 27, 2007 as

emergency measure; Sept. 18, 2007 eff. Oct. 4, 2007.

**§ 753 Educ. Instructional computer hardware and technology equipment**

**apportionment.**

1. In addition to any other apportionment under this chapter, a school

district shall be eligible for an apportionment under the provisions of

this section for approved expenses for

(i) the purchase or lease of micro and/or mini computer equipment or

terminals for instructional purposes or

(ii) technology equipment, as defined in paragraph c of subdivision two

of this section, used for instructional purposes, or

(iii) for the repair of such equipment and training and staff

development for instructional purposes as provided hereinafter, or

(iv) for expenses incurred on or after July first, two thousand

eleven, any items of expenditure that are eligible for an apportionment

pursuant to sections seven hundred one, seven hundred eleven and/or seven

hundred fifty-one of this title, where such items are designated by the

school district as eligible for aid pursuant to this section, provided,

however, that if aided pursuant to this section, such expenses shall not

be aidable pursuant to any other section of law. Such aid shall be

provided pursuant to a plan developed by the district which demonstrates

to the satisfaction of the commissioner that the instructional computer

hardware needs of the district's public school students have been

adequately met and that the school district has provided for the loan of

instructional computer hardware to students legally attending nonpublic

schools pursuant to section seven hundred fifty-four of this article. The

apportionment shall equal the lesser of such approved expense in the base

year or, the product of

(i) the technology factor,

(ii) the sum of the public school district enrollment and the nonpublic

school enrollment in the base year as defined in subparagraphs two and

three of paragraph n of subdivision one of section thirty-six hundred two

of this chapter, and

(iii) the building aid ratio, as defined in subdivision four of

section thirty-six hundred two of this chapter. For aid payable in the two

thousand seven — two thousand eight school year and thereafter, the

technology factor shall be twenty-four dollars and twenty cents. A school

district may use up to twenty percent of the product of

(i) the technology factor,

(ii) the sum of the public school district enrollment and the nonpublic

school enrollment in the base year as defined in subparagraphs two and

three of paragraph n of subdivision one of section thirty-six hundred two

of this chapter, and

(iii) the building aid ratio for the repair of instructional computer

hardware and technology equipment and training and staff development for

instructional purposes pursuant to a plan submitted to the commissioner.

2. As used in this article:

a. Current year shall have the same meaning as that term is defined in

subdivision one of section thirty-six hundred two of this chapter;

b. Base year shall have the same meaning as that term is defined in

subdivision one of section thirty-six hundred two of this article; and

c. Technology equipment, for the purposes of this article, shall mean

equipment with a useful life used in conjunction with or in support of

educational programs including but not limited to video, solar energy,

robotic, satellite, laser and such other equipment as the commissioner

shall approve provided that expenses for the purchase or lease of such

equipment shall not be eligible for aid under any other provisions of this

chapter.

3. No school district shall be required to purchase or otherwise acquire

instructional computer hardware or technology equipment, the cost of which

exceeds the amount of state aid provided pursuant to this section.

4. The apportionment provided for in this section shall be paid at such

times as may be determined by the commissioner and approved by the director

of the budget, during the school year in which the expenditures are

reported to the department prior to such apportionment, but not earlier

than the school year after the school year in which expenses are incurred.

5. Expenses aided pursuant to this section shall not be eligible for aid

pursuant to any other provision of this chapter.

(Added by Laws 2007, ch. [57](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20265496@NYACTS&alias=NYACTS&cite=CHAPTER+57%2C+LAWS+OF+NEW+YORK+2007#PR0), Pt. B, Sec. 7-a, eff. Jul. 1, 2007; Laws 2011,

ch. [58](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=24827259@NYACTS&alias=NYACTS&cite=CHAPTER+58%2C+LAWS+OF+NEW+YORK+2011#PR0), Pt. A-1, Sec. 4, eff. Apr. 1, 2011.)

Amendment Notes:

Laws 2011, ch. [58](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=24827259@NYACTS&alias=NYACTS&cite=CHAPTER+58%2C+LAWS+OF+NEW+YORK+2011#PR0), Pt. A-1, Sec. 4, eff. Apr. 1, 2011, amended

subdivision 1.

**§ 754 Educ. Loan of instructional computer hardware.**

1. In the several cities and school districts of the state, school

authorities, as defined in subdivision twelve of section two of this

chapter, shall have the power and duty, to the extent provided in this

section, to loan, upon request of an individual or a group of individual

pupils, to all pupils legally attending nonpublic elementary or secondary

schools located in the school district, instructional computer hardware

which is designated for use in any public elementary or secondary schools

of the state or is approved by any school authorities. Such instructional

computer hardware is to be loaned free to such children, commencing with

the two thousand seven — two thousand eight school year, subject to such

rules and regulations as are or may be prescribed by the board of regents

and such school authorities.

2. No school district shall be required to loan instructional computer

hardware in excess of the instructional computer hardware acquired by

such district pursuant to section seven hundred fifty-three of this

article. Such instructional computer hardware shall be loaned on an

equitable basis to children attending nonpublic schools in the district

in the current year, provided that nothing in this article shall be

construed to require a school district to loan to children attending

nonpublic schools, pursuant to this section, instructional computer

hardware purchased with local or federal funds or with state funds other

than funds apportioned pursuant to this article. The payment of tuition

under article eighty-nine of this chapter is deemed to be an equitable

loan to children for whom such tuition is paid, and the provisions of

this section shall not apply.

3. School authorities shall adopt regulations specifying the date by

which requests for the purchase and loan of instructional computer

hardware must be received by the district. Notice of such date shall be

given to all non-public schools in the school district. Such date shall

not be earlier than the first day of June of the school year prior to

that for which such instructional computer hardware is being requested,

provided, however, that a parent or guardian of a child not attending a

particular non-public school prior to June first of the school year may

submit a written request for instructional computer hardware within

thirty days after such child is enrolled in such non-public school. In no

event, however, shall a request made later than the times otherwise

provided pursuant to this subdivision be denied where a reasonable

explanation is given for the delay in making the request.

(Added by Laws 2007, ch. [57](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20265496@NYACTS&alias=NYACTS&cite=CHAPTER+57%2C+LAWS+OF+NEW+YORK+2007#PR0), Pt. B, Sec. 7-b, eff. Jul. 1, 2007.)

**8 NYCRR 21.3. Lending procedures for computer software and instructional**

**computer hardware.**

(a) Lending procedures for computer software.

(1) Computer software programs means prepared educational programs

which are subject-oriented for use by students in conjunction with

computers. The following items shall not be considered to constitute

computer software programs for the purpose of this section:

microcomputers, blank diskettes, cassettes or tapes, chips, computer

correction devices, consoles, cords, disk drives and other similar items

of hardware.

(2) Pupils enrolled in grades kindergarten through 12 in schools in New

York State may borrow computer software programs designated for use in

any public elementary or secondary school in the State of New York or

approved by any school board. Such computer software programs shall be

required for use as a learning aid in a particular class or program.

Computer software programs which are religious in nature or content shall

not be purchased or loaned by a school district.

(3) Computer software programs shall be loaned upon the individual

written request of nonpublic school students, but such requests shall not

be required of public school students. Such requests may be presented

directly to the lending district or, with the consent of such district,

to an appropriate official of the nonpublic school which the student

attends. The form of request used by a lending district may provide for a

guarantee by a parent or guardian for the return of such software or, in

the case of loss or damage, for payment of the value thereof.

(4) Computer software programs owned or acquired by a school district

pursuant to section [752](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=18709735@NYCODE&alias=NYCODE&cite=752+Educ.) of the Education Law shall be available on an

equitable basis to all eligible pupils enrolled in grades kindergarten

through 12 in public and nonpublic schools within the district, and to

pupils with handicapping conditions residing in such district who attend

programs under the provisions of paragraphs c, e, g, i and l of

subdivision 2 of section [4401](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=2673559@NYCODE&alias=NYCODE&cite=4401+Educ.) of the Education Law, shall remain the

property of the lending district and shall bear an identifying label. The

school authorities of each district shall establish lending procedures

which apply to pupils in public and nonpublic schools, and shall inform

the authorities of such schools of these procedures.

(5) All computer software programs shall be returned to the official

designated by the lending district as the custodian thereof upon the

request of such official. A lending district may agree that such software

may be stored upon the property of a nonpublic school, in which event the

lending district shall furnish the nonpublic school with an inventory of

the software loaned to the individual students attending such school and

the nonpublic school authorities shall advise the lending district of any

software which has not been returned, with the name and last known

address of the borrower.

(6) Computer software programs shall be loaned free to all eligible

pupils. No charges, except as provided for in paragraph (3) of this

subdivision, may be levied against individual pupils, parents or schools

for the cost of computer software programs or for expenditures related to

freight, postage, distribution, storage, recordkeeping or

administration.

(7) Each district may include in its report of expenditures the

purchase price of the computer software programs purchased, including the

cost of freight or postage for transporting such software from the vendor

to the district. Expenditures relating to distribution, storage,

recordkeeping or administration may not be included for computer software

aid purposes.

(8) Public school districts shall maintain a separate record of

expenditures incurred from State aid received pursuant to Education Law,

section [751](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=18709734@NYCODE&alias=NYCODE&cite=751+Educ.), and this section.

(b) Lending procedures for instructional computer hardware.

(1) Definitions.

(i) Instructional computer hardware shall mean those items of equipment

eligible for State aid pursuant to section [175.25](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=5543841@NYREGS&alias=NYREGS&cite=8+NYCRR+175.25)(b) of this Title,

including:

(a) mini-computers;

(b) microcomputers;

(c) peripheral devices, including printers, video display plotters, and

desk storage units;

(d) telecommunications hardware, including modems;

(e) special hardware boards;

(f) cables;

(g) audio, video, touch-sensitive and other electronic to human machine

interface hardware; and

(h) other such computer hardware that may be required for the operation

of a computer-based instructional program.

(ii) School authorities shall mean those persons as defined under

section [1.1](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=9020489@NYREGS&alias=NYREGS&cite=8+NYCRR+1.1)(p) of this Title.

(2) Pupils enrolled in grades kindergarten through 12 in nonpublic

schools in New York State may borrow instructional computer hardware

designated for use in any public elementary or secondary school in the

State of New York or approved by any school board. Such instructional

computer hardware shall be required for use as a learning aid in a

particular class or program. Instructional computer hardware containing

computer software programs which are religious in nature or content shall

not be purchased or loaned by a school district.

(3) Instructional computer hardware shall be loaned upon the individual

written request of nonpublic school students, but such requests shall not

be required of students attending public school districts. Such requests

may be presented directly to the lending district or, with the consent of

such district, to an appropriate official of the nonpublic school which

the student attends. The form of request used by a lending district may

provide for a guarantee by a parent or guardian for the return of such

hardware or, in the case of loss or damage, for payment of the value

thereof. School authorities shall adopt regulations specifying the date

by which such requests must be received, but no earlier than June 1st of

each year prior to the year for which such hardware is being requested. A

parent or guardian of a child not attending a particular nonpublic school

prior to June 1st of the school year may request a loan of instructional

computer hardware within 30 days after enrollment.

(4) No school district shall be required to loan instructional computer

hardware in excess of the instructional computer hardware acquired by

such district pursuant to Education Law, section [753](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20324706@NYCODE&alias=NYCODE&cite=753+Educ.). Within the limits

apportioned to such district pursuant to Education Law, section [753](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20324706@NYCODE&alias=NYCODE&cite=753+Educ.),

instructional computer hardware acquired pursuant to such section shall

be loaned on an equitable basis to children attending nonpublic schools

in the district in the current year, and to pupils with handicapping

conditions residing in such district who attend programs under the

provisions of paragraphs c, e, g, i and l of subdivision 2 of section [4401](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=2673559@NYCODE&alias=NYCODE&cite=4401+Educ.)

of the Education Law, provided that nothing in this section shall be

construed to require a school district to loan to children attending

nonpublic schools in the district or to such pupils with handicapping

conditions, instructional computer hardware purchased with local or

Federal funds or with State funds other than funds apportioned pursuant

to Education Law, section [753](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20324706@NYCODE&alias=NYCODE&cite=753+Educ.). Such instructional computer hardware shall

remain the property of the lending district and shall bear an identifying

label. The school authorities of each district shall establish lending

procedures which apply to pupils in public and nonpublic schools, and

shall inform the authorities of such schools of these procedures. The

payment of tuition under article 89 of the Education Law is deemed to be

an equitable loan to children for whom such tuition is paid, and the

provisions of this section shall not apply.

(5) All instructional computer hardware shall be returned to the

official designated by the lending district as the custodian thereof upon

the request of such official. A lending district may agree that such

hardware may be stored upon the property of a nonpublic school, in which

event the lending district shall furnish the nonpublic school with an

inventory of the hardware loaned to the individual students attending

such school and the nonpublic school authorities shall advise the lending

district of any hardware which has not been returned, with the name and

last known address of the borrower.

(6) Instructional computer hardware shall be loaned free to all

eligible pupils. No charges, except as provided for in paragraph (3) of

this subdivision, may be levied against individual pupils, parents or

schools for the cost of instructional computer hardware or for

expenditures related to freight, postage, distribution, storage,

recordkeeping or administration.

(7) Each district may include in its report of expenditures the

purchase price of the instructional computer hardware purchased, including

the cost of freight or postage for transporting such hardware from the

vendor to the district. Expenditures relating to distribution, storage,

recordkeeping or administration may not be included for instructional

computer hardware aid purposes.

(8) Public school districts shall maintain a separate record of

expenditures incurred from State aid received pursuant to Education Law,

section [753](http://www.loislaw.com.dbgateway.nysed.gov/pns/doclink.htp?dockey=20324706@NYCODE&alias=NYCODE&cite=753+Educ.) of the Education Law, and this section.

Historical Note: Sec. filed: May 1, 1984 as emergency measure; June 26,

1984; amds. filed: May 29, 2007 as emergency measure; Aug. 27, 2007 as

emergency measure; Sept. 18, 2007 eff. Oct. 4, 2007.